No. 18-966

IN THE

Supreme Court of the United States

UNITED STATES DEPARTMENT OF COMMERCE, *et al.*,

Petitioners,

v.

STATE OF NEW YORK, *et al.*,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF OF *AMICI CURIAE* CENTRAL VALLEY IMMIGRANT INTEGRATION COLLABORATIVE, *ET AL.* IN SUPPORT OF RESPONDENTS

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INTEREST OF *AMICI CURIAE*[1]

Amici, listed individually in Appendix A to this brief, are community organizations, philanthropic institutions, academics, and service providers focused on ensuring that all Californians—including those in the San Joaquin Valley—are able to live in fully represented, fully resourced, empowered, and healthy communities. Amici submit this brief to present the Court with recently published (January-March 2019) research that further demonstrates that inclusion of the Citizenship Question on the 2020 Census will lead to an undercount of immigrant and Latino populations.[2]

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1. Pursuant to Supreme Court Rule 37.3, counsel for amici curiae certify that all parties have consented to the filing of this brief through letters from the parties on file with the Court. Pursuant to Supreme Court Rule 37.6, counsel for amici curiae certify that no counsel for a party authored this brief, in whole or in part, and that no person or entity, other than amici curiae and their counsel, made a monetary contribution to its preparation or submission.

2. Edward Kissam, Richard Mines, Cindy Quezada, Jo Ann Intili, and Gail Wadsworth, *Census Response Among San Joaquin Valley Latino 1st and 2nd Generation Immigrants: Findings from the San Joaquin Valley Survey and Implications for Census 2020* (hereinafter "*Census Response*"), https://www.shfcenter.org/assets/SJVHF/SJVCRP_Survey_Findings_Report_011819_Web.pdf (last visited January 31, 2019); Edward Kissam, *A Cascade Model: How Latino Immigrants' Lowered Response Will Lead to Differential Undercount in Census 2020* (hereinafter "*Cascade Model*"), https://www.shfcenter.org/assets/SJVHF/SJVHF_Census_Cascade_Model_Report_012519_Web.pdf (last visited January 31, 2019); Gail Wadsworth, Edward Kissam, Cindy Quezada, Jo Ann Intili, *Troubled Reflections: Latino Immigrants' Thinking About Census 2020* (hereinafter "*Troubled Reflections*"), https://www.shfcenter.org/assets/SJVHF/SJVCRP_

Differential undercount in the decennial census is a critical public policy concern. Any such undercount will lead to a misallocation of census-driven federal and state public funding, inadequate enumeration, and inequitable political representation. Ensuring an accurate enumeration and overcoming differential undercount of racial/ethnic minorities has been a challenge throughout the history of the U.S. Census.[3] There has been widespread and well-justified alarm about the U.S. Department of Commerce's plans to add a "Citizenship Question" to the decennial census because it will undoubtedly exacerbate this problem. *See* Pet. App. 33a-34a (describing the proposed Citizenship Question). In the year since Secretary of Commerce Wilbur Ross announced his decision to add the proposed Citizenship Question, broad public consensus has underscored the grave concern that his decision would decrease Census 2020 response rates among non-citizens more than among U.S.-born citizens.[4]

Troubled_Reflections_022719.pdf). The methodology described in *Cascade Model* will also be described in a paper forthcoming in the June, 2019 volume of the Statistical Journal of the International Association of Official Statistics.

3. *See e.g.* Stephen E. Fienberg, *Undercount in the U.S. Decennial Census*, in *Encyclopedia of Statistical Sciences*, (Supplemental Volume) (2006), Kirsten K. West and David J. Fein, *Census Undercount: An Historical and Contemporary Sociological Issue, Sociological Inquiry*, Vol. 60 #2, 1990.

4. *See e.g.* Michael Wines, *Critics Say Questions About Citizenship Could Wreck Chances for an Accurate Census, New York Times*, Jan. 2, 2018, https://www.nytimes.com/2018/01/02/us/census-citizenship-status-immigrants.html.

Given the San Joaquin Valley region and California's relatively high proportions of Latino and immigrant populations, the San Joaquin Valley region and the people of California will be acutely and disproportionately harmed by any resulting undercount of these populations. The San Joaquin Valley itself, part of the larger Central Valley region often referred to as the "breadbasket" of the Nation[5] because it provides over one-quarter of the entire U.S. food supply, including "40% of the Nation's fruits, nuts, and other table food,"[6] is of critical importance precisely because of its essential role in feeding the people of the Nation. The impact of the proposed Citizenship Question on the population in the San Joaquin Valley also provides the Court insight into the impact on rural agricultural communities across the country, and how many U.S. citizen Latino and immigrant communities might be impacted by the introduction of the proposed Citizenship Question.

Further, adding the proposed Citizenship Question carries more than simply fiscal implications for state and local governments. The transformation of the decennial census from a civic ritual of affirmation—securing an accurate demographic picture of the U.S., a "mirror of America"[7]—into an exercise in government-sponsored

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5. Goznia Wozniacka, *In nation's breadbasket, Latinos stuck in poverty*, Associated Press, Jun. 3, 2013, https://news.yahoo.com/nations-breadbasket-latinos-stuck-poverty-120309988.html.

6. U.S. Geological Survey, Valley Facts, California's Central Valley, California Water Science Center, https://ca.water.usgs.gov/projects/central-valley/about-central-valley.html (last visited, Mar. 26, 2019).

7. *See generally*, Ruth Kassinger, *U.S. Census: A Mirror of America* (1999).

efforts to diminish the importance of immigrants and fail to account for an actual accurate and complete count of a diverse American nation, will take a severe toll on civic life. The damage wrought by efforts to add the proposed Citizenship Question to Census 2020 will negatively impact a wide range of immigrant integration initiatives. The State of California itself, through legislative and regulatory action, along with a multitude of public institutions throughout California and the San Joaquin Valley, have worked for decades to effectively integrate immigrants into community life in the United States. A 2020 Census with the proposed Citizenship Question—widely recognized as a proxy for an inquiry into immigration status—will only serve to undermine the decades of work that public institutions throughout California have invested in this mission, accelerating rapid growth in government distrust and disengagement, and will only further foment community disappointment and anger regarding anti-immigrant policies.

SUMMARY OF ARGUMENT

Amici submit this brief to present the Court with recently published (January-March 2019) research addressing whether the inclusion of the Citizenship Question on the 2020 Census will lead to an undercount of immigrant and Latino populations in San Joaquin Valley region and the State of California as a whole. The issues and questions before this Court are whether Defendants' decision to include the Citizenship Question on the 2020 Census violates the Administrative Procedure Act ("APA"), 5 U.S.C. § 701 *et seq.*, the Enumeration Clause of the Fourteenth Amendment, U.S. Const., amend. XIV, § 2, and the Enumeration Clause of the U.S. Constitution,

art. I, § 2, cl. 3. Petitioners Br. at I; *see also* 586 U.S. ___ , Order No. 18-966 (adding the Actual Enumeration Clause Question). Whether the inclusion of a Citizenship Question will impact the actual undercount of discrete populations is central to both questions, as well as the Due Process claims being advanced by the Plaintiffs in the Maryland litigation. *See e.g. Kravitz v. Department of Commerce*, 18-cv-01041-GJH, ECF No. 149 at 93-96 (D. Md.) (discussing the way in which differential undercount relates to the disparate analysis under *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252 (1977)).

Since one out of four[8] potential census respondents in the San Joaquin Valley are immigrants, concern about the consequences of a serious actual census undercount of immigrants in this region is very high. To understand how prevalent this concern will be, in August of 2018, the San Joaquin Valley Heath Fund launched the San Joaquin Valley Census Research Project ("SJVCRP") to provide data-based insights into the impact the Citizenship Question would have on immigrant household census response throughout the region. To determine this impact, the SJVCRP conducted in-person interviews of first and second-generation Latino immigrants in the San Joaquin Valley region—throughout the eight counties of Kern, Fresno, Kings, Tulare, Madera, Merced, Stanislaus, and San Joaquin.

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8. The demographic statistics detailed in the reports were derived from the 2017 American Community Survey 1-year estimates for the given geographic region.

The results of this survey research demonstrate that inclusion of the proposed Citizenship Question will cause a significant decrease in the willingness of first and second-generation Latino immigrant households to respond to the 2020 Census. Moreover, inclusion of the proposed Citizenship Question will undermine the effectiveness of the primary remedial mechanism utilized by the Census Bureau to obtain an accurate count of the population: follow-up visits by enumerators and proxy interviews by enumerators that attempt to account for non-responsive households. Ultimately, this research further confirms that, because the proposed Citizenship Question will diminish the response rates of both non-citizens and their citizen relatives, the San Joaquin Valley region—and California as a whole—will be dramatically impacted and disenfranchised by a 2020 Census undercount resulting from the inclusion of the proposed Citizenship Question.

These findings are consistent with the conclusion of the Plaintiffs' experts in the New York, California, and Maryland cases, see Pet. Br. at p.5 n.1 (listing legal challenges) and the well-grounded findings of the District Courts in New York and California. *See infra* Sections II-IV.

Part I, below, explains why it is appropriate for the Court to take notice of this research. This Court has long recognized that social science research—including research submitted by amici—has been a valuable resource for the Court in determining the answers to some of the most challenging questions put before it. The SJVCRP is a valuable addition to the existing body of research because it is one of the few studies outside of the litigation that addresses the current impact of the inclusion of the proposed Citizenship Question, providing

a valuable point of reference and triangulation for the existing research.

Part II describes the findings of the SJVCRP, which demonstrates the extent to which the inclusion of the citizenship question will significantly reduce first and second-generation Latinos' willingness to participate in the 2020 Census.[9] This research finds that including the Citizenship Question reduces this population's willingness to self-respond from 84% to 46%. *See infra* Section II. Further, a qualitive analysis of the data sheds additional light on the reasons why there would be a severe reduction in willingness to participate. This analysis shows that while many Latino residents in the San Joaquin Valley start out both excited and willing to perform their civic duty by participating in the census, attitudes change drastically when discussing the possibility of the proposed Citizenship Question being added to the decennial count. Ultimately, these findings reveal the immense burden placed on Latinos and immigrants by the Citizenship Question, which forces these groups to choose between the desire participate in the census and take pride in one's civic duty to be *counted as persons* by responding

9. The New York District Court found that "the Census Bureau's *own* considered view" was that "the addition of a citizenship question to the 2020 census will cause a significant net differential decline in self-response rates among noncitizen households." Pet. App. at 141a (emphasis in original). Accordingly, the empirical question with regards to decrease in self-response is one of the *extent* of the decrease, and given the demonstrated insufficiency of the Census Bureau's non-response follow-up (NRFU) process to address this nonresponse, the *extent* of the differential undercount. *See infra* Sections III and IV (discussing findings with regard to the NRFU process and estimates of resulting undercount.

to the census, and the fear that doing so might lead to intimidation, persecution, family separation, and other serious harms.

Part III explains the SJVCRP findings demonstrating that inclusion of the citizenship question will frustrate Census Bureau efforts to mitigate the effects of non-responsiveness. Specifically, it demonstrates that key mechanisms used by the Census Bureau to mitigate the effects of non-responsiveness are undermined by the inclusion of the citizenship question.

Finally, Part IV describes the findings demonstrating that the inclusion of the proposed Citizenship Question will lead to a significant undercount of Latino populations in the San Joaquin Valley region and throughout California. By conservative estimation, the aggregate undercount of first and second-generation Latinos in the San Joaquin Valley will be 11.7%. This will lead to an overall 4.1% undercount of the population of the San Joaquin Valley in the 2020 Census. *Cascade Model* at 24. Accordingly, adding the proposed Citizenship Question would irrevocably undermine the accuracy and reliability of census data in both Latino U.S.-born and immigrant communities.

Extrapolated to California at large, the impact of the proposed Citizenship Question on first and second-generation Latinos would cause an aggregate undercount of 900,000 to 1.3 million Californians. *Cascade Model* at 21. At this level of undercount, California would be very likely to lose at least one Congressional seat from the actual Hispanic/Latino immigrant undercount alone. *Id.* The corresponding fiscal losses would likely range from $970 million to $1.5 billion per year during the decade from 2021-2030. *Id.*

ARGUMENT

I. The SJVCRP Research Findings Provide Important Additional Data on the Effect of the Census Question

A. This Court Should Consider the SJVCRP Findings

The Census Bureau has long understood the need to do extensive evaluation and testing to determine how to best ensure that the Census Bureau is able to fulfil its constitutional duty to ensure an accurate enumeration of the population. *See e.g.* Pet. App. 30a-33a. However, in order to implement its eleventh hour decision to include the proposed Citizenship Question, the Census Bureau chose to break with its own obligations and existing practice in declining to conduct its own testing into whether the inclusion of the proposed Citizenship Question would impact census response rates or the potential undercount.[10] As a result of this failure, the research conducted by the Plaintiffs' experts in the litigation challenging the

10. For example, the Office of Management and Budget requires the Census Bureau to pretest the survey components, if they have not been successfully used before, to "ensure that all components of a survey function as intended when implemented in the full-scale survey," and that "measurement error is controlled." Office of Mgmt. and Budget, Statistical Policy Directive No. 2, *Standards and Guidelines for Statistical Surveys at Secs.* 1.3, 1.4, 2.3 (2006), *see also* 71 Fed. Reg. 55, 522 (Sept. 22, 2006). The Census Bureau's Statistical Quality Standards, which implement the OMB's standards and guidelines, require that "[d]ata collection instruments and supporting materials must be pretested with respondents to identify problems . . . and then refined, prior to implementation, based on pretesting results." Pet. App. 32a.

proposed Citizenship Question has provided the best and almost exclusive information available to the Courts to evaluating these issues. As described below, the SJVCRP findings, which utilize an additional research methodology, provide another point of reference to allow the Court to evaluate the relevant facts in this case.[11]

This Court has often looked to amici to shed additional light on the underlying factual questions central to the parties' legal claims, including in cases presenting the most salient of social, legal, and political concerns.[12] Here, two trial courts have already issued findings regarding the extent of the undercount that is highly likely to be caused by the Citizenship Question, and the resulting harms to political representation and resource allocation. These are vital public policy concerns which are foundational to our democratic and representative systems of government, and thus the Court should not turn a blind eye to the evidence before it.

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11. Paulette Rothbauer, *Triangulation*, in *The SAGE Encyclopedia of Qualitative Research Methods*, pp. 892-94. (2008) (explaining that the concept of triangulation is often used to indicate that multiple methods are used in order to check the results of one and the same subject).

12. *See* Richard B. Cappalli, *Bringing Internet Information to Court: Of "Legislative Facts"*, 75 Temp. L. Rev. 99, 123 n. 3 (2002) (noting "Louis Brandeis's use of social science and statistics in his brief in *Muller v. Oregon* [208 U.S. 412 (1908)] that legitimized evidence drawn from worlds of learning outside the law"); *see also* Jonathan Alger & Marvin Krislov, *You've Got to Have Friends: Lessons Learned from the Role of Amici in the University of Michigan Cases*, 30 J.C. & U.L. 503, 506 (2004) (arguing that amicus briefs can be helpful where "amici can best supply interdisciplinary (or specialized) research and information that might validate or contradict important claims being advanced").

The SJVCRP research findings add to the existing research to improve broader public understanding of the impact of the proposed Citizenship Question, and specifically examine how the inclusion of this proposed question may impact California's San Joaquin Valley.[13] The findings from survey data show that adding the proposed Citizenship Question to the 2020 Census is expected to have a major impact in suppressing the response among San Joaquin Valley Latino immigrants and their family members. This will lead to a significant differential undercount of Latino households in the San Joaquin Valley, and a subsequent decrease in the census-based estimates of the overall population in the region, ultimately leading to gaping disparities in political representation and allocation of government sourced program funding. These findings have been extrapolated to the state level, demonstrating the size of this impact.

The Court should not hesitate to consider the SJVCRP findings submitted here by amici. All of the quantitative findings described herein are a part of the record below in the California litigation.[14] Further, the description of the

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13. *See e.g.*, Eric McGhee, Sarah Bohn, and Tess Thurman, "The 2020 Census and Political Representation in California," Public Policy Institute of California, October 2018 at https://www.ppic.org/wp-content/uploads/the-2020-census-and-political-representation-in-california-october-2018.pdf, (last visited March 27, 2019).

14. The quantitative findings described in this brief, as well as the *Census Response* and *Cascade Model* reports, were submitted to the California District Court in the trial stage. *California v. Ross*, 18-cv-01865-RS, ECF No. 197-1 (N.D. Cal. 2019). Petitioners in this case had an independent opportunity to respond to these findings in the proceedings below, *California*, 18-cv-01865-RS, ECF No. 197, but they chose not to do so. The

research design as well as the quantitative and qualitative findings are publicly available. *See supra* fn. 2. Finally, the methodology used to estimate the eventual undercount that is detailed in the *Cascade Model, id.*, is described in that paper and is forthcoming in a paper that will be published in a peer-reviewed journal. *Id.*

B. SJVCRP Research Design

The SJVCRP research contributes to the existing research on potential non-responsiveness to the 2020 Census by looking into the willingness of different sub-populations of Latino immigrants to respond to a 2020 Census with the proposed Citizenship Question. The SJVCRP research also makes a unique contribution to the prior research on the proposed Citizenship Question's impact by employing a different methodology: namely interviews with immigrant community members via face-to-face discussion with interviewers who are also mostly immigrants, like themselves. Moreover, the discussions took place in the real-world street-level environment of day-to-day life in local communities.[15] Thus, the SJVCRP

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district court subsequently granted amici's motion to file the brief. *California*, 18-cv-01865-RS, ECF No. 205 at 8 n4 (N.D. Cal. Mar. 6, 2019). *See also* Pet. Resp. Mot. to Expedite, *Ross v. California*, 18-1214 at 7-10 (discussing differences in the records between the New York and California challenges.

15. The SJVCRP conducted interviews with 414 Latino survey respondents in 104 venues in 31 communities in the San Joaquin Valley region. These respondents lived in households in 66 San Joaquin Valley cities and towns throughout the region, and sampling at places where immigrants and people in immigrant social networks congregate was designed to assure geographic and sociological diversity, as well as to assure inclusion of respondents who might be living in hidden or unconventional housing. *Census Response* at 11.

research model's use of in-person interviews complements the studies performed by California and New York Plaintiffs' expert, Dr. Matthew Barreto, who examined propensity to respond to a 2020 Census with the proposed Citizenship Question in a national telephone survey, with a different research methodology. *See California*, 18-cv-01865-RS, ECF No. 205 at 20 (describing Professor Barreto's study); *cf. id.* (noting that "[w]ithin the scientific community, survey research is considered reliable and has predictive value").

The interviews were conducted in the San Joaquin Valley region, which has a population slightly more than 4.2 million persons, about 900,000 of whom are foreign-born. *Census Response* at 10. The region's population is projected to grow to about 4.6 million by 2020. *Id.* Slightly more than half (52%) of the San Joaquin Valley's entire population is of Hispanic origin and about seven out of ten foreign-born residents in the region are of Mexican or Central American origin. *Id.* The survey respondents are sociologically and demographically representative of the San Joaquin Valley population of foreign-born Latino immigrants and their social networks—most importantly with respect to legal status/citizenship. *Id.* at 11.[16] A central question for the SJVCRP research

16. This demographic data shows Latino immigrants are less likely to have naturalized than immigrants of other national origin, so they make up more than eight out of ten (84%) of the region's non-citizen population that is 18 years of age or older. *Id.* About 20% of the region's overall adult population 18 years of age and older are adult Latino foreign-born, *i.e.*, first-generation immigrants. *Id.* Another 15% of the region's adult Hispanic population 18 years of age or older are the U.S. born adult children of foreign-born Latinos, *i.e.*, second-generation immigrants. *Id.* In terms of immigration and citizenship status, the SJVCRP

was the proportion of Latino immigrants and U.S.-born adult children of immigrants (second-generation) willing to respond to the 2020 Census—without and with the proposed Citizenship Question, either through self-response or through an interview with an enumerator.[17] The SJVCRP research compared willingness to respond without or with the proposed Citizenship Question as a quantitative indicator of the impact of adding the proposed Citizenship Question.

The research also looked beyond willingness to self-respond to the Census and allowed an examination of additional factors involved in non-response, including issues affecting the efficacy of the Census Bureau's non-response follow-up ("NRFU") and subsequent under-count. In addition to its quantitative analysis, the SJVCRP

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estimates that about two out of five in the adult foreign-born Latino population (about 8.5% of the region's entire adult population 18 years of age or older) are undocumented Latino immigrants, while slightly less than a third of the foreign-born Latino adults (5.3% of the overall adult population in the region) are legal residents. *Id.* at 11.

17. The California District Court correctly found that Dr. Barreto's testimony concerning decreased willingness to respond to the Census to be credible. *California*, 18-cv-01865-RS, ECF No. 205 at 21. However, it took minor issue with the phrasing of one of his questions given that some respondents might be more distrusting of the "federal government" than of the "Census Bureau." *Id.* The SJVCRP research questions did not include this reference and posed the question without evoking the president or the current administration. ***Troubled Reflections*** at 8 (noting that the survey questions asked *"You said that you would answer the census. If the census includes that [citizenship] question, will you respond to all questions on the census form?") (emphasis in original).*

research also developed a qualitative report that explores respondents' reasons for their decision-making about Census 2020 both with and without a citizenship question. Transcripts from long answer text boxes included in the SJVCRP survey were systematically coded and analyzed to gain insight into why respondents said what they did and how these responses changed with the proposed addition of a citizenship question. *Troubled Reflections* at 3.

II. Inclusion of the Proposed Citizenship Question Will Significantly Reduce First and Second-Generation Latinos' Willingness to Respond to the 2020 Census

When SJVCRP interviewees were asked, as a baseline, what their willingness to respond to the census would be without the proposed Citizenship Question, the vast majority (84%) of survey respondents said they were willing to answer the census without the proposed Citizenship Question, while 10% said "maybe", and 6% said they would not answer the census at all. *Census Response* at 13-14. Subsequently, after securing responses about "baseline" willingness to respond to the census without a proposed Citizenship Question, interviewers asked the survey respondents about their willingness to participate in the Census if it were to include the proposed Citizenship Question. Adding the proposed Citizenship Question greatly decreases overall willingness to respond to the census, dropping the willingness to respond rate by nearly half, to 46%, for all respondents. *Id.* at 14.

Willingness to Self-Respond to the Census or Enumerator Interview with and Without the Proposed Citizenship Question ("CQ")		
Willingness to Respond	***Willing to Respond to Census without the CQ***	***Willing to Respond to Census with the CQ***
Undocumented (N=147)	80%	25%
Legal Residents (N=108)	85%	63%
Naturalized Citizens (N=44)	89%	70%
U.S.-Born Citizens-Second-Generation (N=97)	89%	49%

One major finding of the SJVCRP study was the scope of the impact of the proposed Citizenship Question was not confined to non-citizens. Second-generation Latino immigrants—U.S.-born citizens—were also much less willing to answer the census if it were to include the proposed Citizenship Question, than the naturalized citizens. *Id.* at 15. Indeed, 34% of Latino U.S.-born citizens and 16% of Latino naturalized citizen respondents were "pushed" from outright willingness or potential willingness to definitive unwillingness to respond to the census due to the addition of the proposed Citizenship Question. *Census Response* at 16.

These research findings further underscore and reinforce the findings of the litigation experts challenging

the inclusion of the Citizenship Question. For example, the District Court for the Southern District of New York concluded "that the addition of a citizenship question to the 2020 census will cause an incremental net differential decline in self-responses among noncitizen households of at least 5.8%," while acknowledging that this "estimate is conservative and that the net differential decline could be much higher." Pet. App. at 150a. It also found that "the citizenship question will also cause a significant decline in self-response rates among Hispanic households" but that based on the evidence there, it was "harder to quantify the likely magnitude of that decline." *Id. at* 150a-151a. Similarly, the U.S. District Court for the Northern District of California found that Plaintiffs' expert, Dr. Barreto, had credibly and reliably testified that increased levels of non-response will extend to citizen households, particularly Latino-citizen households. *California*, 18-cv-01865-RS, ECF No. 205 at 18-21. The District Court further found that "Dr. Barreto's survey provides credible evidence that the addition of the citizenship question is likely to result in a significant decline in self- response rates in California and within the Latino population relative to the public at large." *Id.* at 20-22 (concluding that because of the citizenship question, census response rates are likely to decline between 6.3 and 8.0 percent nationally and between 10.5 and 14.1 percent in the State of California).

The SJVCRP survey results further detail several reoccurring themes in the baseline answers as to why there is a shift in willingness to respond once the proposed Citizenship Question is added: for some, they may be personally fine with responding, but their friends and family may not be. Others are more indignant, explaining their view that this is very personal information that the

census doesn't need, or that including the citizenship question represents a government stance on social policy that is anti-immigrant and/or anti-Latino. *Troubled Reflections* at 8.

Some respondents view that by asking this question, the government moves the census away from being a count of residents into something very different. They fear that the data can be used to find people and that the proposed Citizenship Question is a means of intimidation. Many also believe that asking this question will keep many people in the community from participating. *Id.* at 8-9. Some representative responses include:

"It sounds like discrimination because they are including the word citizenship. They must exclude that word. For example, when they ask about citizenship, it's like [asking about] religion depending on religion-you go here, the others go over there...."

"Racism has been aroused by the new president, we all contribute in this country."

"...This president has aroused racism, it is hurting my people. The census is made to count people."

"I would not answer, because it's a way to intimidate people who do not have papers."

Id. (emphasis in original) [18]

18. It was noteworthy that the concerns of many respondents of the current social and political conditions was not the product of any direct prompt with regard to their view on these issues.

Accordingly, the SJVCRP demonstrates the severe negative impact to rates of response and the severity of the burden it places on the Latino immigrant and U.S. born populations. *Cf.* OMB Statistical Policy Directive 2 at Standard 1.3, 2.3 (establishing obligations to ensure the "highest practical rates of response," while taking account "respondent burden.")

III. Inclusion of the Proposed Citizenship Question Will Frustrate Census Bureau Efforts to Mitigate Non-Responsiveness

The SJVCRP research also reinforces the findings of the District Courts in California and New York that the inclusion of the proposed Citizenship Question will negatively impact the ability of the NRFU process to count the population that declines to self-respond. Pet. App. 154a ("the record shows that if a citizenship question is added to the 2020 census, NRFU procedures will fail to cure the resulting differential decline in self-response rates among noncitizen and Hispanic households"); *id.* at 155a ("many of the reasons that the citizenship question will cause a decline in self-response also apply to NRFU, and will also make NRFU less effective at remedying that decline"); *see also California*, 18-cv-01865-RS, ECF No. 205 at 32. (finding that the NRFU will not remediate the differential decline in self-response rates). When an enumerator tries to contact a non-responding household but fails to convince the householder to participate in an interview, the enumerator is instructed to attempt a "proxy interview" with a neighbor if no administrative record is available as a source of information on the

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See supra note 16.

household.[19] However, as the SJVCRP research further demonstrates, the inclusion of the proposed Citizenship Question significantly raises already-high levels of non-response to enumerators' visits among these populations and decreases the accuracy and efficacy of Census Bureau efforts to enumerate the non-responding households by increasing "proxy interviews" about the household which could not be contacted or which refused.

A. Inclusion of the Proposed Citizenship Question Decreased First and Second-Generation Latinos' Willingness to Respond to an Enumerator Who Came to the Door

SJVCRP survey respondents who had said they were not willing to self-respond to the census were asked if they would respond to an enumerator who came to the door. If contacted by an enumerator in the course of a census without the proposed Citizenship Question, slightly more than one out of four who were not inclined to self-

19. Eventual census accuracy, with or without the proposed Citizenship Question, will rest in part on the Census Bureau's ability to effectively collaborate with concerned community groups in designing and implementing initiatives to overcome the chronic barriers to census participation. As the SJVCRP research shows, the inclusion of the proposed Citizenship Question substantially increases the difficulty the Bureau will have in mitigating these long-standing barriers to a full enumeration. *Cascade Model* at 23. Despite these efforts, in past decades the Census Bureau has not been able to cure the differential undercount problem for certain groups, such as Latinos. Pet. App. 138a-139a. Howeve "the Census Bureau has not significantly increased its spending on 2020 census outreach relative to that expended in 2010," *California v. Ross*, 18-cv-01865-RS, ECF No. 205 at 25, despite the difficulty posed by the inclusion of the Citizenship Question.

respond (29%) said they would be willing to talk with the enumerator and slightly more said they might perhaps answer the door and the questions. Overall, slightly more than half were inclined to answer an enumerator's questions (*i.e.*, the "yes" and the "maybe" responses). *Census Response* at 18.

However, with the proposed Citizenship Question added, those willing to respond to an enumerator who contacted them because their household had not previously self-responded declined sharply—from 29% down to 4%. Moreover, the proportion of respondents who said they would not talk to the enumerator at the door almost doubled—to 84%.[20] The proportion of respondents who said they were uncertain as to whether they would respond to an enumerator visit decreased sharply—from 27% to 12%—if the proposed Citizenship Question ("CQ") were to be added (with the "maybe" responses pushed toward "no" responses). *Id.*

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20. Indeed, SJVCRP research found the major theme in the answers responding to the question "*If the Census includes that citizenship question, would you answer if a Census person (with ID) comes to the door and reminds you that your answers to the census are confidential, and won't be shared with anyone for any reason?*" focused on refusal—refusal to answer the door, refusal to answer the question, refusal to accept that this question is valid and that the government has the right to come to one's door to ask it. *Troubled Reflections* at 10 (emphasis in original).

Proportions of Latino Immigrants Not Inclined to Self-Respond Who Would Respond to a Follow-Up Visit by an Enumerator		
Would Respond to Enumerator	*Census 2020 without the CQ (N=69)*	*Census 2020 including the CQ (N=170)*
Yes	29%	4%
No	43%	84%
Maybe	27%	12%

The SJVCRP research found that the proposed Citizenship Question has a clear negative impact on this mode of response as well as on initial willingness to self-respond. Thus, based on these responses regarding willingness to talk with enumerators, these NRFU efforts will likely fail to improve the already-low response rates. The consequence of low self-response and low response to direct interview contact by enumerators is that the NRFU process will be required to rely more on administrative records and proxy interviews—both of which are difficult to secure and error-prone even when they are available.

B. Inclusion of the Proposed Citizenship Question Decreased First and Second-Generation Latinos' Willingness to Respond to Enumerator Requests for Proxy Interviews

Similar to the survey results related to attempts by enumerators to directly visit the household, the SJVCRP

research shows extraordinarily low willingness to respond to enumerator requests for proxy interviews when the proposed Citizenship Question is included. Even without the proposed Citizenship Question, only 19% of the Latino survey respondents were willing to participate in a proxy interview to provide information about their neighbors. Adding the proposed Citizenship Question significantly decreased this minimal willingness to provide any information about one's neighbors. With the proposed Citizenship Question, only 8% of the respondents said they would provide an enumerator with information about a neighboring household. *Census Response* at 19; *see also Troubled Reflections* at 12 (noting that 53% of the individuals who initially would or might respond to proxy interviews would change their minds if the citizenship question was included). Based on these responses regarding willingness to talk with enumerators, these NRFU efforts will likely fail to improve the already-low response rates.

IV. Inclusion of the Proposed Citizenship Question Will Lead to a Significant Undercount of Latino Populations in the San Joaquin Valley Region and throughout California

The compromised willingness to respond to Census 2020, in combination with other factors such as omission of low-visibility housing units from the Census Bureau's address list, language and literacy barriers, and lack of internet access for online response, will create a "cascade" of errors that will almost certainly result in severe actual differential undercount of Latino households in the San Joaquin Valley and therefore decrease the census-based estimates of the overall population in the region. *Cascade Model* at 16-24.

As the District Court in California recognized, census data quality is eroded in communities where there are high levels of non-response among some sub-populations, despite the Census Bureau's efforts to secure complete enumeration. *See California*, 18-cv-01865-RS, ECF No. 205 at 22-23. This is because, when confronted with high levels of household non-response, the Census Bureau is forced to rely on additional operational and statistical procedures—most notably, proxy interviews, recourse to administrative records, and, finally, imputation, to generate published tabulations of raw census data. As discussed above, the inclusion of the citizenship question would undermine the ability of the proxy interviews to mitigate the effects of non-response. *See discussion supra*, at Section III. Moreover, each of these efforts, while partially compensating for non-response, introduces errors into the eventual tabulations of census data that provide the official basis for apportionment and the allocation of federal funding.[21]

The District Court for the Southern District of New York recognized that the methods used by the Census Bureau would fail to correct for differential undercount, but felt that it lacked the information in the record to precisely quantify what this resulting undercount would be, and ultimately found "that the addition of a citizenship question will cause an incremental differential net undercount of people who live in noncitizen households of approximately 5.8%, and likely more." Pet. App. 170a-171a.

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21. Petitioner's own expert acknowledged in a January 19, 2018 Memorandum prepared for Secretary Ross that data obtained in NRFU have greater rates of erroneous enumeration and whole person imputation. J.A. 106-111.

The District Court for the Northern District of California found that the evidence admitted at trial "demonstrates that a significant differential undercount, particularly impacting noncitizen and Latino communities, will result from the inclusion of a citizenship question on the 2020 Census," *California*, 18-cv-01865-RS, ECF No. 205 at 33-34, and that "its safe to conclude that the true differential decline in self-response rates will in fact be higher than 5.8 percent. Furthermore, the Census Bureau's NRFU efforts are unlikely to mitigate this differential decline in self-response rate." *Id.* at 52.

The SJVCRP, by providing key information on the numbers and characteristics of households not likely to respond, provides an empirical basis for determining the severity of the undercount and how much it will skew the demographic and socioeconomic profile of San Joaquin Valley communities.[22] By the conservative estimations of this modeling, the aggregate undercount of first and second-generation Latinos in the San Joaquin Valley will be 11.7%.[23] This will lead to an overall 4.1% undercount of the total population of the San Joaquin Valley in the 2020 Census. *Cascade Model* at 2.

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22. These estimates utilized a "cascade" model of census undercount developed to understand how dramatically increased levels of non-response among certain populations in certain community contexts would be transformed into differential undercount. For a full discussion of the cascade model utilized in the SJVCRP research and reports, *see generally Cascade Model.*

23. Here, the undercount model weighted the data to match populations in the San Joaquin Valley. *See generally Cascade Model* at 8, 19, 26.

Cascade Model Estimate of San Joaquin Valley Undercount in Latino Immigrant Networks		
San Joaquin Valley Latino Sub-Population as Defined by Status	**Undercount for Sub-Populations**	**Impact on Overall San Joaquin Valley Census Count**
Non-citizens-Undocumented	21.1%	-1.8%
Non-citizens-Legal Residents	7.5%	-0.4%
Foreign-born-Naturalized Citizens	5.9%	-0.4%
U.S.-born-Second-Generation	10.3%	-1.5%
Aggregate Impact-Undercount of First and Second-Generation Latinos	**11.7%**	**-4.1%**

The SJVCRP's projected level of 11.7% undercount among immigrant Latinos and their social networks comports with the estimations found credible by the District Court in California. There, Plaintiffs' expert, Dr. Bernard L. Fraga, estimated that, based on Dr. Barreto's survey results, the Citizenship Question would cause 12.51% of Californians not to be reported at all in the census self-response, and that this would be the largest proportional undercount of any state. *California*, 18-cv-01865-RS, ECF No. 205 at 43. Given that the extrapolations provided in SJVCRP's publications only pertain to *first and second-generation Latino* immigrants, the SJVCRP

research indicates that if the percentage of nonresponse amongst Latino first and second-generation immigrants projected in the San Joaquin Valley remains consistent throughout the State, the total undercount in California will at the very least meet Dr. Fraga's estimations.

The resulting patterns, scope, and extent of the actual undercount can be expected to create significant disparities in allocation of federal (and state) census-driven program funding resulting in what can resonably be described as a failed census.[24] With a decennial census undercount of close to 188,000 Latino immigrant persons in the San Joaquin Valley region alone—the fiscal impact will result in a significant loss of at least $198 million dollars per year in federal funding for the region—a total of almost $2 billion over the post-censal decade from 2021-2030. *Census Response* at 25.

The San Joaquin Valley region, despite its broad distribution among major urban centers, medium-size communities, and small rural towns, will have a total

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24. *See* Ken Prewitt and Richard Alba, *Editor's Note*, 677 The Annals of the American Academy of Political and Social Science 242, (May 2018) (discussing the concept of a "failed census). The differential undercount of the immigrant Latino population would also seriously skew the racial/ethnic profile of the San Joaquin Valley region and, consequently, undermine the reliability of detailed demographic and socioeconomic data collected in the American Community Survey ("ACS") over the post-censal decade from 2021-2030, causing a ripple effect in the margin of error, further degrading and calling into question the accuracy of citizen voting age tabulations, due to unreliable tabulations of responses to the proposed Citizenship Question, the underrepresentation of the Latino population as a whole, and serious uncertainties about the age profile of the population. *Census Response* at 25-26

population of about 4.6 million people in 2020, making it much larger than many major urban areas such as Chicago, Illinois or Houston, Texas, and comparable in population to the City of Los Angeles. Thus, differential undercount in the San Joaquin Valley needs to be understood not only as a regional concern but, also, as an issue of statewide and national concern. The SJVCRP survey results show that adding the proposed Citizenship Question to Census 2020 is likely to have a major impact in suppressing census response among San Joaquin Valley Latino immigrants and their social networks, which comprise more than one-third of the region's total population.

Extrapolated to California at large, the impact of the proposed Citizenship Question on first and second-generation Latinos would cause an aggregate undercount of 900,000 to 1.3 million Californians. *Cascade Model* at 21. At this level of undercount, California would be very likely to lose at least one Congressional seat from Hispanic/Latino immigrant undercount alone, and even more if one considers the balance of "hard to count"[25]

25. "A census tract is considered hard-to-count ["HTC"] if its self-response rate in the 2010 decennial census was ***73% or less***", *i.e.*, if its mail-return rate for self-responses are in the bottom 20% of 2010 mail return rates, the tract has no mail return rates, or a low statistical response score. *HTC 2020: Mapping Hard to Count (HTC) Communities for a Fair and Accurate 2020 Census*, "What is the 'hard to count' population and why does it matter?" (hereinafter, "*HTC 2020*"), https://www.censushardtocountmaps2020.us (last visited March 27, 2019) (emphasis in original). "Hard-to-count subgroups include low-income persons, persons who do not live in traditional housing, persons who do not speak English fluently or have limited English proficiency, persons who have distrust in the government, racial and ethnic minorities, renters, undocumented immigrants or recent immigrants, and young children." *California v.*

U.S.-born and foreign-born persons in California. *Cascade Model* at 21. Indeed, as the findings from both the New York and California district courts demonstrate, this loss of at least one Congressional seat is likely, under either the Plaintiffs' experts' estimation of the net undercount or under the more conservative estimations of undercount derived from the Census Bureau's own predictions of the impact of the proposed Citizenship Question on non-response rates. *Compare California*, 18-cv-01865-RS, ECF No. 205 at 43-44 (finding that regardless of which credible estimate is used, California is likely to lose one congressional seat, and maybe up to three seats) *with* Pet. App. 174a (finding that an "5.8% net differential undercount of people who live in noncitizen households will make California 'extremely likely' to lose a congressional seat that it would not lose otherwise"). The corresponding fiscal losses would likely range from $970 million to $1.5 billion per year during the decade from 2021-2030. *Cascade Model* at 21.

CONCLUSION

The survey conducted by the SJVCRP underscores, complements, and corroborates the findings made by Plaintiffs' experts and other researchers demonstrating the dramatic negative impact of the proposed Citizenship

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Ross, 18-cv-01865-RS, ECF No. 205 at 23. "Census Bureau research shows that there is "substantial overlap" between these hard-to count subgroups and those households most likely not to respond to the 2020 Census because of the citizenship question." *Id.* Approximately 25% of California's current population, an estimated 9,835,521 people, live in HTC census tracts. *HTC 2020 California*, https://www.censushardtocountmaps2020.us/img/mappdfs/California.pdf (last visited March 27, 2019).

Question on undocumented and mixed-status households' willingness to respond to the 2020 Census, as well as the remarkable impact dampening second-generation Latino immigrants' willingness to participate in the census at all. The SJVCRP research further demonstrates that the introduction of the proposed Citizenship Question will undoubtedly lead to a dramatic undercount of these populations that is not likely to be remedied by enumerator interviews. The result will lead to a statistically significant gross undercount of immigrant and Latino populations in the San Joaquin Valley region and the State of California, initiating a cascade of "proxy" mechanisms riddled with tabulation errors, further undermining census data accuracy and reliability, and grossly skewing the demographic and sociological profile of the San Joaquin Valley region and the State of California as a whole, over the next decade. The result risks inaccurate and inadequate apportionment, loss of Congressional representation, loss of an estimated $970 million to $1.5 billion in federal funding for the entire population of California over the next decade, and, perhaps most significantly, an irreversible loss of public trust in the U.S. Census Bureau and in public institutions—state, local, and federal—to adequately serve and remain responsive to the needs of the entire population.

Respectfully submitted,

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April 1, 2019

APPENDIX

APPENDIX — LIST OF *AMICI CURIAE*

Blue Shield of California Foundation is a private foundation whose mission is to build lasting and equitable solutions to make California the healthiest state in the country and end domestic violence. To achieve this mission, the Foundation builds strong, safe, and vibrant communities in California where all people are heard, respected, and have opportunities to contribute. The Foundation's interest in this case arises from a deep concern that, if included in the Census, a question about citizenship will significantly undermine efforts to achieve a fair and comprehensive Census in 2020. The Foundation, our grantees, and our governmental partners in California all rely on accurate Census data as a necessary foundation for a well-functioning government and robust civil society. Inclusion of a citizenship question in the Census would strike at the heart of our ability to accurately assess, and take into account, the assets and needs of vulnerable communities – a step that is essential for us to achieve our goal of making California the healthiest state.

California Institute for Rural Studies (CIRS) has conducted public interest research that informs public policy while providing a fact-based foundation for organizations and individuals working to ameliorate rural injustice. Our philosophy of science is therefore based on the principle that scientific inquiry should consciously serve the long-term public interest. Our interest in the outcome of this case is based on data we collected and analyzed in 2018 that shows that the citizenship question on the 2020 Census will reduce response in low-income Latino communities in rural California. This

has the potential to result in an undercount of these populations who would then lose representation and funding for services so necessary to them. If this is, in fact the outcome, these communities will be adversely impacted for the decade following 2020 as well. As we complete research within rural communities with hard to count populations the census count becomes extremely important to us. We create maps and tools for communities to advocate for themselves and to understand what their communities "look like" but if the data we provide is based on an incorrect set of facts, our ability to provide tools needed within these communities is diminished. Many of the people we work with in rural California are members of disadvantaged communities. In addition to them being members of hard to count populations, they have been living in regions of the state that are consistently underfunded and under represented at all levels of government. Funding for low-income housing, municipal water systems, schools and transportation are all impacted by data that is compiled by the federal government. If these communities are under-counted, barriers to addressing the issues of historic disinvestment are amplified. Our most recent research referred to herein, clearly shows the probability of a serious undercount in the San Joaquin Valley due to an unwillingness among Latino residents to respond to a 2020 Census that includes a citizenship question.

The **California Pan-Ethnic Health Network (CPEHN)** is a statewide multicultural health advocacy organization. Founded over 25 years ago, CPEHN unites communities of color to achieve health and wellness, and to eliminate persistent health inequities. We derive our

strength from our mobilizing arm, the Having Our Say (HOS) coalition which consists of over 30 community-based organizations across California working together to improve access to care and health outcomes as well as through our Behavioral Health Equity Collaborative (BHEC) and California Oral Health Network (COHN) partners. California has made huge strides in reducing health disparities and improving health outcomes for all Californians. CPEHN's interest in the outcome of this case arises out of a concern that, if adopted, Plaintiffs' interpretation of the United States Constitution would have an adverse impact on the health of California's low-income communities of color, including immigrants and their families, and mixed status families, who would be disempowered by the loss of representation in the political process.

The **California Rural Legal Assistance Foundation (CRLA Foundation)** advocates for low-income, predominantly immigrant, rural communities in the agricultural regions of California. CRLA Foundation addresses practices by both private and public entities that disproportionately and negatively affect communities of color and relies on demographic mapping and other analyses that derive from census reports to support this work. Undercounting of immigrants will directly affect the reliability of this data. CRLA Foundation represents populations that historically have been subject to a differential undercount in the Decennial Census, including: migrant and seasonal farmworkers, immigrants, limited English proficient speakers, racial and ethnic groups, children, renters, large families, complex households,

people who reside in hidden housing and hard to reach communities, and other difficult to reach, lower income, especially rural geographies. CRLA Foundation's work will be harmed if responses to census questionnaires in rural communities decline for fear of responding to questions regarding citizenship.

Californians for Pesticide Reform is a diverse, statewide coalition of over 190 member organizations working with communities on the frontlines of pesticide exposure to strengthen pesticide policies in California and protect public health and the environment. We work primarily with Latinx farmworker communities throughout California, but particularly in the San Joaquin Valley, who are disproportionately burdened with multiple health hazards. CPR is strongly opposed to adding a citizenship question to the census. Research shows it will dramatically reduce (in some cases by half) the number of people within certain - primarily Latinx - populations in the San Joaquin Valley who respond to the census. This decline in response is expected among undocumented immigrants who grow the nation's produce, legal residents, naturalized citizens, and U.S.-born citizen children of foreign-born parents who are concerned about the anti-immigrant enforcement actions that could arise from responding to such a census question. In the San Joaquin Valley, the expected region-wide undercount of nearly 200,000 people is likely to have a fiscal impact of billions of dollars over the next decade, a serious problem for the low-income, Latinx communities we work with who are already underrepresented and underserved, with some of the highest levels of poverty, pollution and food insecurity in the United States.

Appendix

The **Central Valley Immigrant Integration Collaborative** (CVIIC) serves immigrant families in California's San Joaquin Valley and promotes their integration into our nation's economy, society and civic life. The region's residents include some 900,000 immigrants and over half a million children with at least one immigrant parent. Most immigrants in the region are long-term residents, with deep roots in the region's economy and society. As part of CVIIC's work in preparation for the 2020 Census, our organization has helped establish local census coalitions and complete count committees in Fresno, Tulare, Kern, Merced, Stanislaus and San Joaquin counties. The local groups include a wide range of organizations with a presence in the region, ranging from nonprofit organizations to public sector agencies, health advocates, faith-based communities, chambers of commerce, and others. The opposition to the inclusion of the proposed citizenship question is widespread among these agencies, which work on a daily basis with immigrants and other hard to count populations. These fears have been further corroborated by the field research that CVIIC carried out in the region as part of the San Joaquin Valley Census Research Project, which generated findings documenting a dramatic unwillingness among immigrants and their U.S.-born children to participate in the 2020 Census if the proposed Citizenship Question is included. Moreover, it would exacerbate the problem of political underrepresentation and heighten alienation, thereby undermining our democratic traditions. For these and numerous other reasons, CVIIC opposes the inclusion of the proposed citizenship question in the 2020 Census.

The **Community Water Center ("CWC")** is a not-for-profit organization based in California working to ensure all Californians have access to safe, clean, and affordable drinking water. We work with communities and strive to achieve our goal through the use of education, outreach, and advocacy. CWC has worked with low-income communities throughout the South San Joaquin Valley, and now Salinas Valley, for over 12 years. Many of the residents within these communities are undocumented and often filling important roles within the heart of agriculture industry in California. CWC's interest in the outcome of this case arises out of a concern that the inclusion of a "citizenship" question on the 2020 census will result in the significant under-counting of a portion of our country, and thus result in under representation for many Americans. Undocumented populations will be deterred out of fear for themselves and their families from either answering honestly as to their immigration status or from filling out the census at all, effectively and unfairly erasing them from our understanding of the makeup of our country's population. An inaccurate accounting will also result in many communities appearing less populated, causing an under representation at all levels of government and even less essential state and federal funding flowing to keep communities alive and grow their resiliency.

The **Council on American-Islamic Relations Sacramento Valley/Central California ("CAIR-SV/CC")** is a chapter of the largest Muslim civil rights and advocacy organization in the country. Locally, CAIR-SV/CC works to serve the needs of the Muslim community

through providing legal services for protection of civil rights, promoting justice through advocacy for policies that impact our communities, and empowering the American Muslim community through civic engagement and organizing on issues pertinent to the Sacramento Valley and Central California. CAIR-SV/CC is interested in this case since inclusion of the citizenship question in the 2020 Census will deter marginalized and minority faith communities from responding accurately and being fully counted. As an advocacy organization, we recognize that this may lead to reduced political representation and a suppression of views and voices from the communities that we serve. In addition, inclusion of the question may result in decreased resources which help provide for the most vulnerable in our region.

Faith in the Valley is a new faith-based grassroots community organization in California's Central Valley of 120 congregations representing over 100,000 families in Fresno, Kern, Merced, Stanislaus and San Joaquin Counties. Our work is led by volunteer leaders who are among the people most impacted by equity issues: low-wage workers, young people, immigrants, and the formerly incarcerated. Together, we are anchored in a prophetic theology of resistance that helps people understand the systemic roots of their shared suffering, as well as articulate an alternative narrative that liberates individuals and communities from the dominant cultural norms that perpetuate inequity. The Central Valley is home to about 900,000 immigrants with long term roots in their community, as well as the local economy. Inclusion of the citizenship question in Census 2020 will

deter participation by immigrant community members and as amici we are focused on ensuring that the all Californians—including those in the Central Valley—are able to live in fully represented, fully resourced, empowered, and healthy communities.

Fresno Economic Opportunities Commission (EOC) is nonprofit dedicated to providing equal opportunity in education, employment, health and living conditions for every American in our country. As the largest Community Action Agency in Fresno, we bridge the gaps with almost every underserved population. We want all communities to be informed about Census 2020, understand what data is used for and how an accurate count can benefit those typically undercounted. The current political climate, along with the potential inclusion of a citizenship question brings up security concerns among undocumented (and documented) immigrants. Many families in the Central Valley are mixed status families which may not completely/accurately fill out the census out of fear and distrust of government. Several studies on this subject have reached the same conclusion: if the question remains on the form many immigrants will not participate. This makes the task of outreach difficult for community based organizations because while nonprofits are trusted messengers in the community, government distrust will result in undercounts. Fresno EOC is concerned on the possible ramifications keeping the question could have and ask it be removed for the sake of providing an accurate count, representative of all our communities.

Appendix

Incorporated in 1986, the **Grove Foundation** is dedicated to grant making in the areas of reproductive rights, safety net, immigration, environmental justice and civic engagement. The Grove Foundation has a particular interest in ensuring the rights of low income, unrepresented and marginalized people. The Grove Foundation's interest in the 2020 census centers around its concerns over a full and accurate count. The Grove Foundation believes that including the question will undermine the census count impacting representation as well as resource allocation for the communities we support.

The **Immigrant Legal Resource Center (ILRC)** is a national non-profit resource center on immigration law and policy. The ILRC is committed to the fair and humane administration of United States immigration laws and respect for the civil and constitutional rights of all persons. The ILRC's interest in this case stems from its work to promote immigrant integration and civic engagement by immigrant communities. Inclusion of the citizenship question in Census 2020 will significantly deter participation by immigrant community members. The ILRC has full-time staff based in California's San Joaquin Valley that work with local immigrant communities and legal service providers. An undercount in this region, which is home to a substantial immigrant population, will ultimately lead to diluted political representation. Furthermore, cuts to federal funding resulting from an undercount will exacerbate poverty levels for a region with some of the highest rates of poverty in the nation.

The **Jakara Movement** is a primary organization in the United States exclusively dedicated to defending and advancing the rights and opportunities of Sikh-Americans, many of which are mixed-status. A "mixed-status family" is a family whose members include people with different citizen- ship or immigration statuses. One example of a mixed-status family is one in which the parents are undocumented and the children are U.S.-born citizens. The Jakara Movement 's interest in the outcome of this case arises out of a concern that the inclusion of a Citizenship Question would have an adverse impact on Sikh-American immigrants and their families, including mixed status families, who would be disempowered by the loss of representation in the political process.

The **Latino Community Foundation (LCF)** is the premier statewide foundation focused on unleashing the power of Latinos in California. LCF fulfills its mission by building a movement of civically engaged philanthropic leaders, investing in Latino-led organizations, and increasing political participation of Latinos. An accurate census count is necessary for California's population, especially for the more 15 million Latinos that make up 39% of the population, to assert their rightful claim to tax dollars they pay to build necessary infrastructure, schools, and access to healthcare. The census also secures political voice and representation at the federal level. A January 2018 poll commissioned by LCF showed that over 50% of California's Latinos believe that their responses to the census might be shared with immigration authorities. This is a troubling finding considering that there are already five million Latinos who live in hard-to-count

census tracts in California, where compounding factors like poverty and the digital divide complicate a fair and accurate count in the next census. California's Latinos are the backbone of the economy--and contribute over $54 billion in taxes. Fair and accurate representation at the federal level depends solely on a fair and accurate 2020 Census count, and the SJVCRP research findings expose the significant risk of a differential undercount for California Latinos due to fear that the information will be used for improper immigration purposes if the proposed "Citizenship Question" is introduced, harming the future of our state and nation.

Leadership Counsel for Justice and Accountability (Leadership Counsel) is a not-for-profit 501(c)(3) organization based in the San Joaquin Valley and Eastern Coachella Valley. Leadership Counsel works with lower income, majority Latino communities and neighborhoods in the San Joaquin and Eastern Coachella Valleys on issues related to neighborhood health and community sustainability including access to housing, safe drinking water, and transit. Leaders from the under-resourced neighborhoods struggle each day to draw state and federal resources to their communities to address decades of underinvestment in their neighborhoods, to improve public health, and increase access to economic opportunity. They also work hard to ensure fair representation in decision-making bodies from city hall to Congress. A census undercount would undermine the work that communities throughout the San Joaquin Valley and the state are engaged in to secure resources for basic services and infrastructure and fair representation by government,

thereby threatening community health, well-being, and economic opportunity.

Legal Aid at Work (LAAW) is a nonprofit legal organization whose mission is to protect and expand the employment and civil rights of underrepresented workers and community members. LAAW does this by engaging in impact litigation, direct legal services, legislative advocacy and community education. Through its National Origin and Immigrants' Rights Program, LAAW advocates on behalf of immigrant and other workers who face discrimination and exploitation in the workplace because of their national origin.

Manuel Pastor, Ph.D., Professor of Sociology at the University of Southern California is the Director of the University of Southern California's Program for Environmental and Regional Equity (PERE) and its Center for the Study of Immigrant Integration (CSII). He has published extensively on demographic, social, and political change in California and advise a broad range of foundations and other stakeholders on strategic investment to support immigrant integration. His research, and the research of the applied research team at the University of California, extensively on accurate decennial census data as well as American Community Survey data where accuracy is driven, in part by data derived from the decennial census. Information on immigrant households is crucial for this research and advice to foundations, non-profit organizations, and state government. Dr. Pastor is familiar with the research that has been conducted by the San Joaquin Valley Health Fund's Census Research

Project. Due to the fact that the project's survey data stems from face-to-face interviews with Latino, Asian, and other immigrants in the local community environment, it provides a valuable complement to other research on the impact the citizenship question will have on immigrant census participation (not only self-response but, also, response to proxy interviews).

The **National Immigration Law Center ("NILC")** is the primary national organization in the United States exclusively dedicated to defending and advancing the rights and opportunities of low-income immigrants and their families. Over the past 35 years, NILC has won landmark legal decisions protecting fundamental rights, and advanced policies that reinforce our nation's values of equality, opportunity, and justice. NILC's interest in the outcome of this case arises out of a concern that the inclusion of a citizenship question in the 2020 Census will have an adverse impact on low-income immigrants and their families because it will lead to a undercount of these communities, which would then be disempowered by loss of representation in the political process and disadvantaged by a reduction in necessary services.

Prevention Institute is a national nonprofit organization dedicated to promoting health, safety, and wellbeing through thriving, equitable communities. As an organization committed to advancing public health, Prevention Institute strongly urges removal of the proposed citizenship question from the 2020 Census. The citizenship question will likely result in lower participation and a significant undercount, a warning issued by the

Census Bureau's own chief scientist. Asking respondents about their citizenship status will discourage immigrants (whether documented or undocumented) from participating in the Census, potentially leading to a serious undercount of immigrant communities and communities of color. In our current political climate, where aggressive and arbitrary immigration enforcement actions are stirring fear and trauma in immigrant communities, immigrants may fear that any information they share with the Census Bureau will be used against them or their family members. Public health, welfare, and education programs rely on Census data to serve communities across the country and to allocate our collective resources. The communities that would be most affected by the likely undercount caused by the citizenship question are those that already face longstanding inequities in political representation and federal funding, especially communities of color, children, and low-income rural and urban communities.

Proteus, Inc. is a private non-profit organization with a four county service area: Fresno, Tulare, Kings, and Kern. Our mission is to provide education, job training, job placement, and other support services to farm working families and other program participants. Proteus staff provide services to migrant seasonal farm workers (MSFWs) and their families in rural areas within our service area. Proteus believes that the inclusion of the citizenship question in the 2020 Census will deter participation of MSFWs and as a result, cause a severe undercount in California. The families we serve rely on the services that are offered, and an undercount of the rural, agricultural communities can have a strong impact on available services in the future.

Appendix

Founded in 1976, **Radio Bilingüe (RB)**, is California nonprofit based in Fresno, California. RB is a trusted, ethnic, community media platform broadcasting particularly to indigenous migrant communities, farm workers, mono-lingual Spanish-speakers and other hard to reach populations, and across multiple generations. The vast majority of Radio Bilingüe's public radio listeners are Latinos in mixed-immigration-status families including native-born citizens, naturalized citizens, legal and undocumented residents and new immigrants. RB listeners are primarily Spanish-speaking, but also from Mixteco- and Triqui-speaking indigenous communities, who are among the poorest in California. In recent months RB has heard from many in its audience through its live interactive radio talk shows that they are not likely to participate in the Census count if there is a citizenship question on the questionnaire. The prospects of Latinos not participating would be devasting. The Latino population is relatively young with the Latino community having about two thirds of the children or more; the majority population of all residents in the San Joaquin Valley depend on MediCal for their healthcare. Fresno, which is Radio Bilingüe's headquarters, has among the poorest zip codes in the nation and the highest concentration of children living in poverty. Since the Census data will be used in the allocation of significant programs serving the poor in health care and programs for children, the nonparticipation by Latinos will be seriously detrimental.

Sierra Health Foundation is a private foundation whose mission is to improve the health and quality of life for all who live in a 26-county Northern California

region. The foundation relies heavily on census and American Community Survey data for our own planning, grant-making, and engagement with grantees and philanthropic and community partners. The foundation is one of 18 funder partners of the San Joaquin Valley Health Fund, a project of The Center for Health Project Management, Sierra Health Foundation's 501(c)(3) public charity. Given the important role census data has in federal (and state) program funding and political representation, and the data implications for advancing the foundation's mission and service to communities in need, the foundation is a significant stakeholder in this litigation. Sierra Health Foundation believes strongly that the inclusion of a citizenship question on Census 2020 would deter non-citizens, relatives and other community members throughout the United States from responding to the census, thereby detrimentally impacting the health and wellbeing of millions of children and families.

Sunlight Giving is a family foundation with a mission to support organizations that provide basic services to low-income families with children ages 0-6 in greater Silicon Valley. Throughout California, too many families with young children do not have access to basic resources that enable them to achieve stability and thrive

Current research points to the lasting impact that the lack of these necessities have on families, especially young children. Accurate census data is vital to our work, both to help understand where there are resources that need to be addressed, but also to ensure these communities have an equitable share of the federal resources they

need. An under count of any population, and espeacially a differential under count of some of the most vulnerable populations in California will have devestating impacts on low-income families with young children.

The **United Farm Workers Foundation (UFW Foundation)** is a dynamic nonprofit organization established in 2006 with the core purpose of empowering communities to ensure human dignity. UFW Foundation serves over 90,000 immigrants annually through a holistic approach; UFW Foundation provides critical services and engage our constituents in systemic change to break the cycle of poverty. UFW Foundation's regional offices—located in the San Joaquin Valley region and other regions in the state of California— are safe havens that provide resources and services such as credible immigration legal advice and act as hubs for educational outreach and organizing. The UFW Foundation's interest in the outcome of this case is of great concern as this will disproportionately negatively impact our members who are farm worker families, low-income immigrants, immigrants with disabilities and persons of color. UFW Foundation believes that adding this question to the census is a racist stunt that will have dangerous consequences for all of our families, friends, and neighbors as it continues to exacerbate the rhetoric of hate. Farm working and immigrant families in the Central Valley are not only vital to our economy and food security; they are also vital to our communities. UFW Foundation believes that it is crucial that a citizenship question is not included in the Census.

Rural Communities Collaborative 2020 The Citizenship Question will result in a severe undercount in the rural, agricultural communities of West Fresno County. If these communities are undercounted they will lose representation in the political process, and they will lose the social and human services upon which they depend for survival like access to quality and affordable health care, parenting and life skills trainings, resume and employment assistance, and crisis management services for victims of violent crime.